LBP City of Industry, CA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CAMERON INTERNATIONAL CORPORATION

Employer

and

Case 21-RD-2869

RICHARD E. LACHMAN

Petitioner

and

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, DISTRICT LODGE 725, LOCAL LODGE 1980, AFL-CIO

Union

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered determinative challenges in an election held January 22, 2010, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 20 for and 21 against the Union, with 28 challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings and recommendations, and finds that a certification of results of election should be issued.

Absent exceptions, we adopt pro forma the hearing officer's recommendations to overrule the Union's Objections 1, 2, and 3 and to sustain the challenges to the ballots of Randall A. Begay, Wanida Boonrat, Rosalita Chatsuwan, Sandra Garcia, Carole Hegwald, Cosme Hernandez, Eugene Hudgins, Chiem Hung, Yupadee Klinkalong, Enrique Lozano, Lilia Lozano, Alma Martinez, Javier Olague, Bina Pandya, Richard Romer, Catalina Suarez, Victoria Torres, and Sandra Zuniga.

In its exceptions, the Union lists 11 laid-off employees it argues are eligible voters whose ballots it claims should have been counted. Among those 11 employees is Levert Price, whose name was not included by the hearing officer in his list of challenged voters at issue in this case. In light of our disposition of this case, in which we find that none of the laid-off employees are eligible to vote in the election, we find it unnecessary to resolve this discrepancy.

² We agree with the hearing officer, for the reasons he states, that the Employer met its burden of showing that the employees laid off in December 2009 did not have a "reasonable expectancy of recall in the near future, as of the payroll eligibility date." See, e.g. Apex Paper Box Co., 302 NLRB 67, 68 (1991). In so finding, we reject the Union's contention in its exceptions that the grievance it filed in September 2009, concerning August 2009 layoffs, is sufficient to provide the challenged voters laid off in December with a reasonable expectancy of recall. Although the Union asserts that if it prevails in the arbitration (which as of the February 22-23, 2010 hearing had not yet been scheduled), "approximately 5-6 of the challenged voters laid off in December would be recalled," neither the Union's brief nor the record evidence sufficiently explain how this result could occur or the likelihood of this result. Accordingly, we agree with the hearing officer that the pendency of the September grievance is insufficient to provide the employees laid off in December with a reasonable expectancy of recall in the near future

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for International Association of Machinists and Aerospace Workers, District Lodge 725, Local Lodge 1980, AFL-CIO, and that it is not the exclusive representative of these bargaining unit employees.

Dated, Washington, D.C., September 29, 2010

Wilma B. Liebman,	Chairman
Craig Becker,	Member
Mark Gaston Pearce	e, Member
NATIONAL LABOR REI	LATIONS BOARD

as of the eligibility date. *Mono-Trade Co.*, 323 NLRB 298 (1997), is distinguishable from the present case. In *Mono-Trade* a challenged voter was clearly identified and encompassed by a pending grievance and the Board deferred ruling on the challenge, for a reasonable period of time, pending resolution of the grievance. Here, however, it is not clear if the challenged voters are encompassed by the grievance or how the grievance could result in their reinstatement.